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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
|-----------------|-------------|----------------------|---------------------|------------------|

10/705,936

11/13/2003

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027651-145

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21839 7590 09/26/2008
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EXAMINER

REFAI, RAMSEY

ART UNIT

PAPER NUMBER

3627

NOTIFICATION DATE

DELIVERY MODE

09/26/2008

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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| | | | |
|------------------------------|--------------------------------------|---|--|
| Office Action Summary | Application No. 10/705,936 | Applicant(s) ANDERSSON ET AL. | |
| | Examiner Ramsey Refai | Art Unit 3627 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 July 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) 8-12 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION***Response to Amendment***

Responsive to Applicant's election with traverse of Group I (Claims 1-7) in the reply filed on July 21, 2008 is acknowledged. The traversal is on the ground(s) that all the claims can be examined at the same time without a serious burden. This is not found persuasive because subcombination I has separate utility such as tracking production of a product including registering events in the plant with the work identity and displaying data associated with at least one event of a specific point in time, which is not required by subcombination II. The subcombinations are also classified separately and would require separate searches. The requirement is still deemed proper and is therefore made FINAL.

Claims 8-12 are withdrawn.

Claims 1-7 remain pending further examination.

Response to Arguments

1. Applicant's arguments filed March 4, 2008 have been fully considered but they are not persuasive.

Argument A: *the claimed material quantities are flowable liquids that do not change form; the Baird patent does not appear to have the capabilities to track a portion of a flowable liquid*

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., *material quantities are flowable liquids that do not change form; track a portion of a flowable liquid*) are not recited in the rejected claim(s). Although the claims are interpreted in light of the

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specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Argument B: *the Baird patent does not track each raw material input into the process at a specific point in time based on a unit identity of a production unit and a work identity of a material quantity.*

In response, the Examiner respectfully disagrees. Baird teaches a method of tracking elements in a production chain. The chain comprises a plurality of processes. The central information store records production information. The production information can be presented to customers or operators showing production information including process locations, production dates, etc, at different stages of the production chain **(see at least abstract, column 4, lines 13-50, column 5, lines 41-43, column 6, line 66-column 7, line 33).**

Priority

2. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1: the limitation " a work identity of a material quantity" in line 12 lacks proper antecedent basis.

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Claim 2: the limitation "the work identities" lacks proper antecedent basis".

Claim 3: the limitation "the material quantities" lacks proper antecedent basis".

Claim 4: the limitation "the identities" lacks proper antecedent basis".

Claim 5: the limitation "an event" lacks proper antecedent basis".

Claim 6: the limitation "registered events" lacks proper antecedent basis".

Claim 7: the limitation "a production unit" and "said material quantity" lacks proper antecedent basis".

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1-7 are rejected under 35 U.S.C. 102(e) as being anticipated by Baird (US Patent No 7,062,262).

6. As per claim 1, Baird teaches a method of tracking in production in a plant for liquid foods, comprising:

allocating a unit identity to production units in the plant, the unit identity is registered and constitutes a source and/or a destination (**see at least column 2, lines 12-23, 56-60, column 1, lines 40-60; products are given an identifier for tracking**);

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allocating a work identity to a material quantity of the product in the production, the work identity is registered **(see at least column 1, line 40-column 2, lines 23; each input ingredient/process is given an identifier);**

registering events in the plant with the work identity of a material quantity of a product, to identify a transport of at least a portion of the material quantity from a source with reference to the unit identity of the source and/or to a destination with reference to the unit identity of the destination **(see at least column 1, line 40-column 2, lines 23, column 2, lines 56-61, column 4, lines 14-50);** and

displaying data associated with at least one event of a specific point in time based on the unit identity of a production unit and a work identity of a material quantity **(see at least column 4, lines 13-50, column 5, lines 41-43, column 6, line 66-column 7, line 33; customers or operators are presented with results showing the processes of a target item including process locations and dates, at different stages of the production chain).**

7. As per claim 2, Baird teaches wherein the work identities are registered in a specifically adapted database **(see at least fig 1, 140; central database).**

8. As per claim 3, Baird teaches wherein the material quantities are determined by a certain product, by a certain volume and/or a quantity **(see at least column 2, lines 12-23).**

9. As per claim 4, Baird teaches wherein the identities include a number of figures, letters and/or a combination of figures and letters **(see at least column 3, lines 18-23).**

10. As per claim 5, Baird teaches wherein the work identity of a material quantity changes identity based on an event **(see at least column 2, lines 4-24, column 5, lines 15-40).**

11. As per claim 6, Baird teaches wherein registered events and a material flow in the plant are illustrated in a user interface using a tree structure **(see at least column 6, lines 45-65, fig 1).**

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12. As per claim 7, Baird teaches wherein the work identity of a material quantity includes washing of a production unit, said material quantity having no source and no destination **(see at least column 1, line 61-column 2, line 3; process, column 3, lines 5-10)**.

Conclusion

Examiner's Note: The Examiner has cited specific citations in the reference(s) as applied to the claim(s) above for the convenience of the Applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested that the Applicant, in preparing their response, fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the examiner.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ramsey Refai whose telephone number is (571) 272-3975. The examiner can normally be reached on M-F 8:30 - 5:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ryan Zeender can be reached on (571) 272-6790. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Ramsey Refai
September 21, 2008
/R. R./
Examiner, Art Unit 3627

/F. Ryan Zeender/

Supervisory Patent Examiner, Art Unit 3627